

ORDINANCE NO. 21-04

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING ORDINANCE NO. 20-02 RELATED TO TRANSFERS OF RESIDENTIAL DENSITY; AMENDING CHAPTER 30, "LAND DEVELOPMENT REGULATIONS," ARTICLE IV "ADMINISTRATIVE PROCEDURES," DIVISION 12 "TRANSFERS OF DEVELOPMENT RIGHTS" OF THE VILLAGE CODE OF ORDINANCES BY SPECIFICALLY AMENDING 30-503 TO CLARIFY AREAS ELIGIBLE FOR TRANSFER OF RESIDENTIAL DENSITY WITHIN THE VILLAGE; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON APPROVAL OF THIS ORDINANCE BY THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY.

WHEREAS, Islamorada, Village of Islands (the "Village") has adopted a comprehensive set of Land Development Regulations (the "LDRs") to implement the Village Comprehensive Plan; and

WHEREAS, the Village seeks to define and expand the provisions within the LDRs for the Transfer of Development Rights ("TDRs") in order to facilitate the redistribution of residential density within the Village; and

WHEREAS, the Village desires to specifically amend Chapter 30 "Land Development Regulations" Article II Rules of Construction and Definitions, Sec. 30-32 "Specific Definitions;" Article IV Administrative Procedures | Division 12 Transfer of Development Rights, Sec. 30-506(3) "Transfer of Development Rights (TDRs) for Residential Dwelling Units and Density" to clarify areas eligible for transfer of residential density within the Village; and

WHEREAS, the provisions of this Ordinance are consistent with the Village Comprehensive Plan and the Principles for Guiding Development within the Florida Keys Area of Critical State Concern; and

WHEREAS, the Village Council of Islamorada, Village of Islands (the "Village Council") finds that the provisions of this Ordinance are intended to advance the public health, safety, and welfare of the citizens of the Village.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The above recitals are true, correct and incorporated herein by this reference.

Section 2. Amending Provisions for Transfer of Development Rights. Chapter 30 "Land Development Regulations" Article II Rules of Construction and Definitions, Sec. 30-32 "Specific Definitions;" Article IV Administrative Procedures | Division 12 Transfer of Development Rights, Sec. 30-506(3) "Transfer of Development Rights (TDRs) for Residential Dwelling Units and Density," of the Code is hereby amended to read as follows:

Additional text is shown as <u>underlined</u> ;	deleted text is shown as strikethrough
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Sec. 30-503. – Transfer of development rights (TDRs).

The types of development rights that may be transferable are limited to the following activities:

- (1) Intensity and Density: The transfer of intensity (FAR) from vacant nonresidential and density from residential sender sites to vacant nonresidential and residential receiver sites that meet the minimum lot area but are nonconforming as to density, so as to permit the development of the receiver site.

- a. Receiver sites within mixed-use zoning districts are only permitted to apply off-site residential density to the residential component of a development. The transfer of off-site residential density shall not constitute a mechanism to increase the allowable number of dwelling units per acre on a receiver site.
 - b. To ensure clarity, notwithstanding any other provision in the Village's Land Development Regulations, for purposes of interpreting and implementing Ordinance No. 20-02, the area encompassed by submerged lands and the area encompassed by tidally influenced mangroves shall be excluded from the density calculation of any parcel or lot.
- (2) Non-Residential Floor Area: The off-site transfer of existing nonresidential floor area from any lot to any other lot, whereby the following conditions apply:
- a. The following zoning districts are eligible as sender sites: VC+, TC, CF, MR, HC, NC, I, C, PS, R and M*; and
 - b. The following zoning districts are eligible as receiver sites: VC+, TC, CF, MR, HC, NC, I, PS, R and M*.

*Mariculture (M) zoning district is only eligible as a sender and receiver site if located within the industrial (I) FLUM category. +Village center (VC) zoning district is only eligible as a sender site when the receiver site is within the village center (VC) zoning district.

- (3) Residential Dwelling Units: The off-site transfer and redevelopment of existing residential dwelling units, Transferable ROGO Exemption (TRE) Certificates and the off-site transfer of building permits for residential dwelling units. Development or redevelopment of additional residential dwelling units shall only be permitted within specifically denoted zoning districts following the successful transfer of residential dwelling units to eligible receiver sites.

Section 3. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. Repeal of Conflicting Provisions. The provisions of the Code and all Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 5. Inclusion in the Code. It is the intention of the Village Council, and it is hereby ordained that the provisions of this Ordinance shall become a part of the Code; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 6. Transmittal to the Florida Department of Economic Opportunity. The provisions of this Ordinance constitute a "land development regulation" as State law defines that term. Accordingly, the Village Clerk is authorized to forward a copy of this Ordinance to the Florida Department of Economic Opportunity ("DEO") for approval pursuant to Sections 380.05(6) and (11), Florida Statutes.

Section 7. Effective Date. This Ordinance shall not be effective until approved pursuant to a final order by DEO, pursuant to Chapter 380.05, Florida Statutes; or if the final order is challenged, until the challenge to the order is resolved pursuant to Chapter 120, Florida Statutes.

The foregoing Ordinance was offered by Vice Mayor Pete Bacheler, who moved its passage on first reading. This motion was seconded by Councilman David Webb, and upon being put to a vote, the vote was as follows:

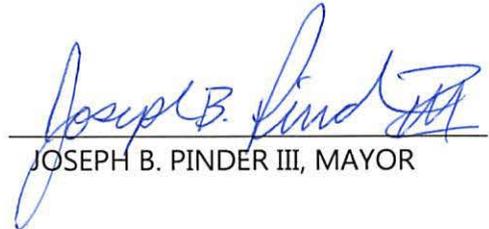
Mayor Joseph B. Pinder III	YES
Vice-Mayor Pete Bacheler	YES
Councilman Mark H. Gregg	YES
Councilman Henry Rosenthal	YES
Councilman David Webb	YES

PASSED on first reading this 20th day of May, 2021.

The foregoing Ordinance was offered by Councilman David Webb, who moved its passage and adoption on second reading. This motion was seconded by Councilman Mark Gregg, and upon being put to a vote, the vote was as follows:

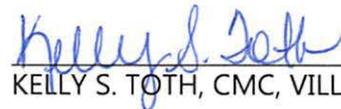
Mayor Joseph B. Pinder III	YES
Vice-Mayor Pete Bacheler	YES
Councilman Mark H. Gregg	YES
Councilman Henry Rosenthal	YES
Councilman David Webb	YES

PASSED AND ADOPTED this 9TH day of June, 2021.



JOSEPH B. PINDER III, MAYOR

ATTEST:



KELLY S. TOTH, CMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGALITY FOR THE
USE AND BENEFIT OF ISLAMORADA, VILLAGE OF
ISLANDS ONLY



ROGET V. BRYAN, VILLAGE ATTORNEY